

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3124 OF 1994

1. Mrs Bharati Shivaji Nigade
and ors. .. Petitioners, .
Vs
Mr Jaysing Shankarrao Nigade, .. Respondent
None for the petitioners.

CORAM : D.B.BHOSALE, J.

DATE : FEBRUARY 23, 2005.

P.C.

1. This petition is directed against the order dated 29.6.1994 passed by the Appellate Court in Misc. Civil Appeal No.97 of 1994, by which the appeal filed by the respondents-defendants was allowed and consequently the order dated 14.2.1994 passed below Exhibit-5-application filed by the petitioners-plaintiffs was set aside. By the order dated 14.2.1994, the application-Exhibit-5 filed under Order 39, Rule 1 of C.P.C was allowed. This Court, on 19.10.1994 while admitting the petition, had granted an ad-interim relief in terms of prayer clause (d). Prayer clause (d) reads thus :

"(d) Pending hearing and final disposal of this petition, the respondent, his agents, servants be restrained by an order of

temporary injunction from causing obstruction to the petitioners possession over the suit properties."

While passing the aforementioned order on 19.10.1994 this Court had directed the trial Court to hear and dispose of the main suit as expeditiously as possible and in any event by the end of March, 1995. Liberty to apply was also given to the parties. However, neither the petitioners nor the respondent have made any application for either hearing of the writ petition early or for vacating the ad-interim relief granted on 19.10.1994. It appears that in view of the specific directions given by this Court, the trial Court must have disposed of the suit and that may be the reason why parties have lost interest in the present writ petition and, therefore, nobody is appearing on their behalf. In the circumstances, I am constrained to dismiss this writ petition for nonprosecution. Order accordingly.

(D.B.Bhosale, J.)